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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/378,533	08/20/1999	PAMELA L. MCKISSICK	UV-98	9255

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ROPES & GRAY LLP  
PATENT DOCKETING 39/361  
1211 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036-8704

EXAMINER
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KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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01/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/378,533

Applicant(s)

MCKISSICK ET AL.

Examiner

Andrew Y. Koenig

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 63-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 63-86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 63-86 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 63, 66, 67, 69, 70, 74, 75, 77, 79, 80, 82, 84, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,351,075 to Herz et al. (Herz) in view of U.S. Patent 5,699,107 to Lawler et al. (Lawler).

Regarding claims 63, 69, 77, and 82, Herz teaches a dynamic scheduling system that receives user votes for movies to adjust the prime-time viewing periods (col. 3, ll. 27-53). Herz teaches displaying a list of a plurality of program titles, wherein each of the plurality of program titles is for an unscheduled program that is outside a program listings time frame that is currently available to a user (col. 5, ll. 36-41, col. 5, ll. 60-63). Displaying information with the plurality of program titles, wherein the information informs the user that the unscheduled programs are outside the program listings time frame that is currently available to the user and informs the user that the unscheduled

programs are expected to be available at a later time (lists of includes information derived from video magazines discloses upcoming releases, and date of the release – col. 5, ll. 60-63). Herz teaches providing the user with the opportunity to select a program title from the list of the plurality of program titles (col. 5, ll. 30-50), and providing a notification to the user of the availability of the program-corresponding to the selected program title when the program is now in the program listings time frame (Herz teach referring to a program guide to selectively record their selections – col. 6, ll. 34-35).

Whereas Herz teaches providing program-specific availability notifications to the user in the form of program guides for permitting uses to program their VCRs for later viewing, Herz fails to teach displaying a program specific notification when the program is now in the current program listing time frame. Lawler teaches providing reminder notifications (figs. 8 and 9, col. 12, ll. 44-47, col. 13, ll. 11-15), which read on displaying a program specific notification when the program is now in the current program listing time frame.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by displaying a program specific notification when the program is now in the current program listing time frame as taught by Lawler in order to provide preferred programming information to viewers prior to the start of the program.

Regarding claims 66, 74, 79, and 84, Herz is silent on providing a message notification. Lawler teaches providing a message notification, as shown in figure 9, col. 12, ll. 44-47, col. 13, ll. 11-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the manual searching of the program guide of Herz by providing a message notification as taught by Lawler in order to automate a process with the added benefit of creating reminders for the user, thereby enhancing the user's ability to view requested programming.

Regarding claims 67, 75, 80, and 85, Herz is silent on providing a reminder notification. Lawler teaches providing a reminder notification, as shown in figure 9, col. 12, ll. 44-47, col. 13, ll. 11-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the manual searching of the program guide of Herz by providing a reminder notification as taught by Lawler in order to automate a process with the added benefit of creating reminders for the user, thereby enhancing the user's ability to view requested programming.

Regarding claim 70, Herz teaches user television equipment (fig. 1, labels 40 and 50).

4. Claims 64, 68, 71, 72, 76, 78, 81, 83, and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,351,075 to Herz et al. (Herz) and U.S. Patent 5,699,107 to Lawler et al. (Lawler) in view of U.S. Patent Application Publication 2005/0204388 to Knudson et al. (Knudson).

Regarding claims 64, 72, 78, and 83, Herz is silent on displaying a list of programs for which a notification is to be provided. Knudson teaches displaying a list of programs for which a notification is to be provided (as shown in figure 10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by displaying a list of programs for which a notification is to be provided as taught by Knudson in order to view and manage current reminder within the guide.

Regarding claims 68, 76, 81, and 86, Herz is silent on providing the user with the opportunity to setup a configuration of the notification. Knudson teaches providing the user with the opportunity to setup a configuration of the notification (fig. 7-8, 10a, 11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by providing the user with the opportunity to setup a configuration of the notification as taught by Knudson in order to customize the reminders so that the reminder will appear at a time that the user desires, thereby increasing the flexibility of the system for different users.

Regarding claim 71, Herz is silent on the equipment can be a personal computer. Knudson teaches that the equipment can be a personal computer (pg. 3-4, para. 0047).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by using a personal computer as taught by Knudson in order to enable different devices to interface with the system, while increasing the functionality of a multipurpose computing device.

5. Claims 65 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,351,075 to Herz et al. (Herz) and U.S. Patent 5,699,107 to Lawler et al. (Lawler) in view of U.S. Patent Publication No. US 2002/0026496 to Boyer et al. (Boyer).

Regarding claims 65 and 73, Herz and Lawler are silent on notifying the user with electronic mail.

Boyer teaches notifying the user with electronic mail; Boyer, in the same field of endeavor, teaches a television programming system with electronic mail notifications of desired programming (page1, paragraph 6, paragraph 9; see also page 4, paragraph 51) for the advantage of delivering notifications of programming selections to any internet accessible system.

One of ordinary skill in the art would recognize the benefit of notifying the user with electronic mail in order to deliver notifications of programming selections to any Internet accessible system

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz and Lawler to notify said user with electronic mail, as taught by Boyer, for the advantage of delivering notifications of programming selections to any Internet accessible system.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

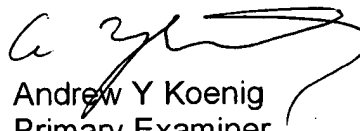
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Andrew Y Koenig  
Primary Examiner  
Art Unit 2623

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